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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,215	08/28/2000	Allan Lamkin	68570	7416

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EXAMINER	
VU, TUAN A	

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/649,215	LAMKIN ET AL.	
	Examiner	Art Unit	
	Tuan A Vu	2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2004/5/11*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 6/14/2004.

As indicated in Applicant's response, no claims have been amended. Claims 1-10 are pending in the office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markel, USPN: 6,760,043(hereinafter Markel), in view of Tahara et al., USPN: 5,909,551 (hereinafter Tahara).

As per claim 1, Markel discloses a method combining video/audio content with programming content comprising:

generating authoring output comprising a definition for a variable (e.g. *XML file, XSL scripts* - col. 3, line 63 to col. 4, line 6; col. 4, lines 20-39; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15 – Note: defining variables (e.g. project name, canvas) from the authoring interface in corresponding to tags in XML scripts implicitly teach the defining of a variable to be rendered by the browser when the browser resolves a HTML tag variable which has been defined from within the XML file); and comprising a representation of the video/audio content, the representation of the video/audio content defining how the content is to be displayed (e.g. Fig. 10; *iTVML file, iTVML export* – col. 2, line 17 to col. 3, line 8);

selecting a source file, the source file comprising a variable; searching the source file for the variable and replacing the variable with the definition for the variable (e.g. *parsed using XSL ... to produce HTML code and Javascripts* – col. 3, line 63 to col. 6; col. 5, line 45 to col. 6, line 4; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15; col. 6, lines 35-44; Fig. 13-16; col. 7, lines 11-15 – Note: the resolution of elements, e.g. extracted from URL strings or DB records, declared in the authoring interface in association with definition in the XML-based file reads on replacing a variable found in a source file -e.g. HTML file or Javascripts, e.g. col. 11-15- based on XML definition of elements, or variables, created from the interface);

generating a programmatic content in response to the searching (e.g. Fig. 1; *enhancement content* - col. 1, lines 25-30; iTVML - col. 10, lines 45-54).

But Markel does not explicitly disclose generating an image as a function of the programmatic content and the representation of the video/audio content; and combining the image with the video/audio content. However, Markel discloses a set top box type of products including software and image support (e.g. Fig. 1; *Javascript, VBscript* - Fig.2). The delivery of software deliverables or products to end-users in the audio/video industry, e.g. Markel's television interactive enhancement content, via medium like internet carrier wave or computer-readable medium built upon an image being provided as a representation outlining the video/audio content was a known concept at the time the invention was made. Tahara, in a method to generate a video program content using programmatic and layout structure (e.g. Fig. 2, 10) within a user-interactive recording and reproducing system (i.e. authoring) analogous to the interactive programmatic content by Markel, discloses implementing of recorded data in markup format with retrieval of data/files using markup tag (e.g. col. 2, lines 25-38; Fig. 23-28)

analogous to the resolution of variables by Markel with a browser and generating of an image to be part of the video-content being deliverable (e.g Fig. 8). Based on the well-known concept to create medium with image for delivery, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the combining of programmatic content with the image into a deliverable, such as a readable disc, as taught by Tahara to Markel's system to provide video enhancement content because providing an image would enable understanding of relationships between entities recorded in the medium being delivered to the audio/video reproducing environment (see Tahara, col. 1, line 56 to col. 2, line 24).

As per claim 2, Markel discloses a product to be delivered to set top box users (col. 2, lines 17-29; Fig. 1), hence implicitly teaches storage in a medium for transmission to the end-user, while Tahara further discloses storing of the image in a storage medium (e.g. Fig. 23); and this limitation would have been obvious for the same rationale as in claim 1.

As per claim 3, Markel discloses a product to be delivered to set top box users, hence implicitly teaches storage in a medium for transmission to the end-user, while Tahara discloses transmission of audio/video and programming content through a transmission medium (e.g. Fig. 16,18); and this limitation would have been obvious for the same rationale as in claim 1.

As per claim 4, Markel discloses searching of source file at build time (e.g. col. 3, line 63 to col. 6; col. 5, line 45 to col. 6, line 4; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15; col. 6, lines 35-44; Fig. 13-16; col. 7, lines 11-15 – Note: the search of identifier values, URL strings or database records for resolving XML tags and create dynamic button-implementing javascripts – see Appendix -- during authoring interface is equivalent to search of source file at build time).

As per claims 5 and 6, Tahara further discloses searching of source file at run-time (e.g. col. 3, line 63 to col. 6; col. 5, line 45 to col. 6, line 4; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15; col. 6, lines 35-44; Fig. 13-16; col. 7, lines 11-15) and searching in response to a software engine executed on a browser (e.g. Fig. 10, 14-16).

As per claim 7, Markel discloses searching upon usage of the iTVML software being distributed to the television set top boxes (re claim 1) but does not disclose a DVD, while Tahara discloses search execution and markup resolution on a browser in the reproducing of recorded data in a medium (e.g. col. 17, lines 23-34; Fig. 1); i.e. runtime of recorded data in audio/video (e.g. DVD) medium and insertion of DVD into a driver device. The motivation as to provide a medium for enabling an interactive display enhancement as by Tahara and implementing such medium necessary to enable video interface display components and programmatic enhancement as taught by Markel have been mentioned in claim 1. In case such medium being delivered happens to be a DVD as suggested by Tahara, the searching of files or data incurred in reading the authoring information stored in such medium would have been obvious in light of the rationale as set forth in claim 1.

As per claim 8, Markel discloses a system for combining video/audio content with programming content comprising means for:

searching the source file for the variable; replacing the variable with the definition for the variable (e.g. *parsed using XSL ... to produce HTML code and Javascripts* – col. 3, line 63 to col. 6; col. 5, line 45 to col. 6, line 4; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15; col. 6, lines 35-44; Fig. 13-16; col. 7, lines 11-15 – Note: the resolution of elements, e.g. extracted from URL strings or DB records, declared in the authoring interface in association with definition in the

XML-based file reads on replacing a variable found in a source file -e.g. HTML file or Javascripts, e.g. col. 11-15- based on XML definition of elements, or variables, created from the interface); and

generating a programmatic content in response to the searching (e.g. Fig. 1; *enhancement content* - col. 1, lines 25-30; iTVML - col. 10, lines 45-54).

But Markel does not explicitly disclose generating an image as a function of the programmatic content and the representation of the video/audio; and combining the image with the video/audio content. However, this limitation has been addressed by the combined teachings of Markel and Tahara as in claim 1 above, hence is rejected herein with the same ground of rejection set forth therein.

As per claim 9, Tahara discloses a system for combining video/audio content with programming content comprising:

a parser adapted to search the source file for the variable, replace the variable with the definition for the variable (e.g. *parsed using XSL ... to produce HTML code and Javascripts* – col. 3, line 63 to col. 6; col. 5, line 45 to col. 6, line 4; Fig. 6-7; *canvas, pjName, pjID* - Fig. 10, 15; col. 6, lines 35-44; Fig. 13-16; col. 7, lines 11-15); and

generate programmatic content in response to the searching (e.g. Fig. 1; *enhancement content* - col. 1, lines 25-30; iTVML - col. 10, lines 45-54).

But Tahara does not explicitly teach an image engine adapted to generate an image as a function of the programmatic content and a representation of the audio/video content; and a formatter to combine the image with video/audio content. But this limitation has been addressed

by the combined teachings of Markel and Tahara as in claim 1 above, hence is rejected herein with the same ground of rejection set forth therein.

As per claim 10, this system claim recites modules for generating the same step limitations, i.e. for searching, for generating programmatic content, and for creating image as recited and addressed in claim 8 above; hence is rejected herein using the corresponding rejections set forth therein, using accordingly Markel's teaching in view of Tahara's.

Response to Arguments

4. Applicant's arguments filed 6/14/2004 have been fully considered. In view of the new grounds of rejection, these arguments are for the most part moot; however, some of them still relate to the current rejection and are not persuasive. Following are the arguments deemed not persuasive and the corresponding responses by Examiner.

(A) Applicants have submitted that Tahara does not disclose an authoring system or method, but only the format of a video-CD. In response, it is noted that authoring is a method by which source content of some application being provided to a destination application is being more or less interactively administrated and formatted by the source provider, wherein embedding or structuring the source content with metadata or identification enhancement is provided so to enable security control, user retrieval/access or usage facilitation of such source content when received at the target application that would makes use of it. Thus, at the time the invention was made, it is well known that applications like media recording or source building of such content are purported and enhanced for the easy and controlled use of the content at the recipient application or remote end-users. The purpose-oriented relationship between what is known as recording/building or authoring of content and what is perceived as application to reproduce/use

such content happens to be evidenced in the likes of Tahara's invention. Tahara discloses that the user are responsible to provide of control data to be incorporated in the build of the image, such control data enabling the subsequent reproduction of the media content (e.g. Fig. 1-5). For example, the action of providing metadata or identification structures as earlier perceived as part of an authoring process is noted as being disclosed by Tahara when data are formatted according to markup-based tree structure while in the recording stage. Hence, it is not appropriate to conceive Tahara's system as exclusively a reproduction method to be completely disassociated from the recording process wherein some authoring actions are perceived to have taken place. In other words, providing metadata or authoring information during build/recording time and incorporating such information into the delivered audio/video content is for enhancing and facilitating end-user reproduction/use of such media, and in that context, although the term authoring is not explicitly disclosed, Tahara's recording/reproduction cannot be treated as a stand-alone reproducing application without considering the disclosed recording stage with its authoring-like implementation and its intended implications at reproduction time.

(B) The other arguments raised concerning Brodersen are not in conjunction with the new grounds of rejection hence will become moot.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (703)305-7207. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for formal communications intended for entry)

or: (703) 746-8734 (for informal or draft communications, please consult Examiner before using this number)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA. , 22202. 4th Floor(Receptionist).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT
July 29, 2004

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